

Served: October 25, 2000



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 19th day of October, 2000

Essential air service at

**DODGE CITY, GREAT BEND and
HAYS, KANSAS
GARDEN CITY, KANSAS**

Docket OST-96-1898 - 7

Docket OST-96-1953 - 7

under 49 U.S.C. 41731 *et seq.*

ORDER TO SHOW CAUSE

Summary

By this order, the Department is tentatively reselecting Air Midwest, Inc., d/b/a US Airways Express, to provide essential air service from the four communities listed above to Kansas City for the two-year period ending September 30, 2001, at annual subsidy rates totaling \$605,800. The order also provides for objections or competing proposals from other interested carriers.

Background

By Order 97-9-13, September 11, 1997, the Department selected Air Midwest to provide subsidized service at the four communities listed above through September 30, 1999, by operating 12 round trips a week from Dodge City and Garden City to Kansas City over one route and 12 round trips a week from Great Bend and Hays to Kansas City over another route with 19-seat Beech 1900 aircraft at annual subsidy rates totaling \$277,228.¹

Under our normal procedures when nearing the end of a subsidy rate term, we contact the incumbent carrier to determine whether it is interested in continuing service and whether it will continue to require subsidy. We usually negotiate a new subsidy rate with the carrier, issue an order tentatively reselecting it for a new rate term at the agreed rate, and direct other parties to show cause why we should not finalize our tentative decision. Other carriers wishing to submit competing proposals are invited to do so in response to the show-cause order; if any such proposals are filed, we process them as a competitive case. Consistent with this practice, we

¹ See Appendix A for a map.

invited Mesa, Air Midwest's parent company, to submit a proposal for the continuation of its services at the communities beginning October 1, 1999.²

Carrier Proposal

Mesa submitted a proposal in response to our request. As a result of discussions with Department staff, Mesa has agreed to a new rate term for the two-year period through September 30, 2001. Specifically, Mesa has agreed to Air Midwest's continuation of the same services at the communities as described above, at new subsidy rates totaling \$605,800 annually.³

Decision

After a thorough review of the proposal and Air Midwest's service history, we have decided to authorize subsidy for Air Midwest's ongoing service for the two-year period through September 30, 2001. The proposed rates appear reasonable for the services at issue and the carrier's performance continues to be satisfactory.

Carrier Fitness

49 U.S.C. 41737(b) and 41738 require that we find an air carrier fit, willing and able to provide reliable service before we compensate it for providing essential air service. We last found Air Midwest fit by Order 2000-7-35, July 28, 2000, in connection with its essential air service at Topeka, Kansas. Since then, the Department has routinely monitored the carrier's continuing fitness, and no information has come to our attention that would lead us to question its ability to operate in a reliable manner. Based on our review of its most recent submissions, we find that Air Midwest continues to have available adequate financial and managerial resources to provide quality service at the communities at issue here, and that it continues to possess a favorable compliance disposition. The Federal Aviation Administration has advised us that the carrier is conducting its operations in accordance with 14 CFR Part 121, and knows of no reason why we should not find that Air Midwest remains fit.

Responses to Tentative Decision

As usual, we will allow interested parties 20 days from the date of this order to object to our decision or to file objections or competing proposals. If no timely objections or competing proposals are filed, this order will automatically become final. We expect persons objecting to our tentative decision to support their objections with relevant and material facts. We will not entertain general, vague or unsupported objections.

Carriers interested in filing competing proposals, with or without subsidy requests, should file them within the 20-day period set for objections. At the end of the 20-day period, our staff will

² In addition to Air Midwest's service to Kansas City, the four communities have also been receiving subsidized service to Denver from Great Lakes Aviation, Ltd., d/b/a United Express. We recently decided to reselect Great Lakes to provide subsidized service at Dodge City, Garden City and Hays through September 30, 2001, but to discontinue subsidy for Great Lakes' service at Great Bend; see Orders 2000-2-18, February 14, 2000, and 2000-6-14, June 19, 2000.

³ Appendix B contains details of Air Midwest's compensation requirements.

docket any competing proposals, thereby making them public, and direct each carrier to serve a copy of its proposal on the civic parties and other applicants. Each applicant, including the incumbent, will then have an opportunity to finalize its proposal in rate discussions with Department staff before we seek final community comments. We will give full consideration to all proposals that are timely filed. As a general matter, we request proposals that would provide service at levels commensurate with those tentatively selected here with twin-engine aircraft operated by two pilots.

Traffic and Service History

Air Midwest has provided subsidized service at the four communities throughout the history of the essential air service program. For many years, the carrier served the communities along multi-stop routes stretching from Denver in the west to Wichita (in the cases of Dodge City and Garden City) and Kansas City (in the cases of Great Bend and Hays) in the east, thus providing each of the communities with service to two hubs. In April 1992, following the acquisition of Air Midwest by Mesa Airlines, Inc., Mesa began operating the communities' westward services while Air Midwest continued to operate eastward.⁴ About two years later, in March 1994, Air Midwest switched Dodge City's and Garden City's eastern hub from Wichita to Kansas City,⁵ and in April 1998 Great Lakes replaced Mesa on the westward routes to Denver.⁶ Finally, as noted earlier, the Department recently discontinued subsidy for Great Lakes' service from Great Bend to Denver, and Great Lakes has discontinued that service.

The communities' eastward traffic has generally shown improvement in recent years. During calendar year 1999, Dodge City averaged 6.7, Garden City 10.4, Great Bend 5.8 and Hays 11.0 enplanements a day. Total traffic at the four communities was 13.1 percent above that registered during calendar year 1994, with three of the four communities showing gains and only Dodge City showing a decline over the five-year period.⁷

Procedures for Filing Competitive Proposals

For interested carriers unfamiliar with our procedures and recommended form for supplying the necessary information, we have prepared two explanatory documents that we will make available upon request. The first describes the process for handling carrier replacement cases under 49 U.S.C. 41734(f), and discusses in detail the process of requesting proposals, conducting reviews of applicants, and selecting a replacement carrier. The second is an evidence request containing an explanatory statement, a copy of Part 204 of our regulations (14 CFR 204), and schedules setting forth our recommended form for submitting data required for calculating compensation and determining the financial and operational ability of applicants to provide reliable essential air service. (Section 204.4 describes the fitness information required of all applicants for authority to provide essential air service.) Applicant carriers that have already submitted this information in another case need only resubmit it if a substantial change has

⁴ See Order 92-4-16, April 6, 1992.

⁵ See Order 94-3-18, March 9, 1994.

⁶ See Order 98-3-32, March 30, 1998.

⁷ Appendix C contains historical traffic data.

occurred. However, if there are more recent data or if there have been any changes to the information on file, carriers should provide updates of those information elements. Interested carriers that need to obtain copies of these documents may contact the Office of Aviation Analysis at (202) 366-1053.

Other Carrier Requirements

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces, and nondiscrimination.⁸ Consequently, all carriers receiving Federal subsidy for essential air service must certify that they are in compliance with Department regulations regarding drug-free workplaces and nondiscrimination, and those carriers whose subsidies exceed \$100,000 over the life of the rate term must also certify that they are in compliance with the regulations governing lobbying activities. All carriers that plan to submit proposals involving subsidy should submit the required certifications along with their proposals. Interested carriers requiring more detailed information regarding these requirements as well as copies of the certifications should contact the Office of Aviation Analysis at (202) 366-1053. The Department is prohibited from paying subsidy to carriers that do not submit these documents.

Community and State Comments

If we receive competing proposals, the communities and state are welcome to submit comments on the proposals at any time. Early in the proceeding, comments on the proposals' strengths and weaknesses would be particularly helpful, and the civic parties may also express a preference for a particular carrier, if they choose. In any event, after conducting rate conferences with all applicants, we will provide a summary of the conference results to the civic parties and ask them to file their final comments.⁹

This order is issued under authority delegated in 49 CFR 1.56a(f).

⁸ The regulations applicable to each of these three areas are (1) 49 CFR Part 20, New Restrictions on Lobbying, implementing title 31, United States Code, section 1352, entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions"; (2) 49 CFR Part 29, Subpart F, Drug-Free Workplace Requirements (Grants), implementing the Drug-Free Workplace Act of 1988; and (3) 49 CFR Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964; 49 CFR Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance; and 14 CFR Part 382, Nondiscrimination on the basis of handicap in Air Travel.

⁹ In cases where a carrier proposes to provide essential air service without subsidy and we determine that service can be reliably provided without such compensation, we do not normally hold rate conferences. Instead, we rely on the carrier's subsidy-free service as proposed.

ACCORDINGLY,

1. We tentatively reselect Air Midwest, Inc., d/b/a US Airways Express, to provide essential air service at Dodge City, Garden City, Great Bend and Hays, Kansas, as described in Appendix D, for the period from October 1, 1999, through September 30, 2001;

2. We tentatively set the final rates of compensation for Air Midwest, Inc., d/b/a US Airways Express, for the provision of essential air service at Dodge City, Garden City, Great Bend and Hays, Kansas, as described in Appendix D, for the period from October 1, 1999, through September 30, 2001, payable as follows: for each month during which essential air service is provided, the amount of compensation shall be subject to the weekly ceilings set forth in Appendix D, and shall be determined by multiplying the subsidy-eligible arrivals and departures completed during the month by the following amounts:¹⁰

Dodge City and Garden City	\$221.60
Great Bend and Hays	\$427.76

3. We direct Air Midwest, Inc., d/b/a US Airways Express, to retain all books, records, and other source and summary documentation to support claims for payment, and to preserve and maintain such documentation in a manner that readily permits its audit and examination by representatives of the Department. Such documentation shall be retained for seven years or until the Department indicates that the records may be destroyed. Copies of flight logs for aircraft sold or disposed of must be retained. The carrier may forfeit its compensation for any claim that is not supported under the terms of this order;

4. We find that Air Midwest, Inc., d/b/a US Airways Express, continues to be fit, willing and able to operate as a commuter air carrier and capable of providing reliable essential air service at Dodge City, Garden City, Great Bend and Hays, Kansas;

5. We direct any interested persons having objections to the selection of Air Midwest to provide essential air service as described in ordering paragraph 1 above, at the rates set forth in ordering paragraph 2 above, to file such objections or competing service proposals no later than 20 days from the date of service of this order;¹¹

¹⁰ See Appendix D for the calculation of these rates, which assume the use of the aircraft designated. If the carrier reports a significant number of aircraft substitutions, revision of these rates may be required.

¹¹ Objections should be filed with the Documentary Services and Media Management Division, SVC-124, Room PL-401, Department of Transportation, 400 7th Street S.W., Washington DC 20590. Proposals to provide essential air service should be filed with the Chief, EAS & Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6417I, Department of Transportation, at the same address. Questions regarding filings in response to this order may be directed to Dennis J. DeVany at (202) 366-1061.

6. If we receive objections or competing proposals within the 20-day period, Air Midwest will be compensated at the subsidy rates set forth in ordering paragraph 2 above as final rates until all objections are resolved;
7. We will afford full consideration to the matters and issues raised in any timely and properly filed objections and service proposals before we take further action.¹² If no objections or competing service proposals are filed, all further procedural steps will be deemed waived and this order shall become effective on the twenty-first day after its service date;
8. These dockets will remain open until further order of the Department; and
9. We will serve copies of this order on the mayors and airport managers of Dodge City, Garden City, Great Bend and Hays, Kansas; Mesa Air Group, Inc.; Great Lakes Aviation, Ltd. d/b/a United Express; the Ellis County Coalition for Economic Development, the Office of the City Attorney for Dodge City; and the persons listed in Appendix E.

By:

FRANCISCO J. SANCHEZ
Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this document is available
on the World Wide Web at <http://dms.dot.gov>*

¹² Since we are providing for the filing of objections to this order, we will not entertain petitions for reconsideration.

APPENDIX A

● Denver

● Hays

Garden City

●

● Great Bend

● Dodge City

Kansas City

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APPENDIX B

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AIR MIDWEST, INC., d/b/a US AIRWAYS EXPRESS
ANNUAL COMPENSATION REQUIREMENT FOR ESSENTIAL AIR SERVICE AT
DODGE CITY AND GARDEN CITY, KANSAS
(At 98 percent completion)

Departures		2,147 <u>1/</u>
Block Hours		1,964 <u>1/</u>
Revenue passenger-miles		3,633,930 <u>1/</u>
Available seat-miles		8,019,634 <u>1/</u>
Operating Revenues:		
Passenger: 11,094 psgrs at \$132.96	\$1,475,058	
Other (at 1.0% of psgr rev)	14,751	
Total Operating Revenues		\$1,489,809
Operating Expenses:		
Direct:		
Flying Operations (\$126.57/BH)	\$ 248,583	
Fuel & Oil (\$168.63/BH)	331,189	
Other Flight Operations (\$13.94/BH)	27,378	
Aircraft Ownership (\$165.70/BH)	325,435	
Maintenance (\$173.91/BH)	341,559	
Total Direct Expenses		1,274,144
Indirect:		
Traffic-related (\$0.010/RPM)	\$ 36,339	
Departure-related (\$115.23/dpt)	247,399	
Capacity-related (\$0.014/ASM)	112,275	
Advertising	5,000	
Total Indirect Expenses		401,013
Total Operating Expenses		\$1,675,157
Operating Loss		\$ 185,348
Profit Element (5.0% of Total Operating Expenses)		\$ 83,758
Annual Compensation Requirement		\$ 269,106

1/ Calculated as follows:

	Departures	Block Hours	Available seat-miles
GCK-DDC	$313 \times 3 \times .98 = 920$	$920 \times 0.384 = 353$	$920 \times 19 \times 43 = 751,640$
DDC-MCI	$313 \times 3 \times .98 = 920$	$920 \times 1.250 = 1,150$	$920 \times 19 \times 303 = 5,286,440$
GCK-MCI	$313 \times 1 \times .98 = 307$	$307 \times 1.500 = 461$	$307 \times 19 \times 338 = 1,971,554$
Total	<u>2,147</u>	<u>1,964</u>	<u>8,019,634</u>
Revenue passenger-miles			
DDC-MCI	$4,758 \times 303 = 1,441,674$		
GCK-MCI	$6,336 \times 346 = 2,192,256$		
Total	<u>3,633,930</u>		

APPENDIX B
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AIR MIDWEST, INC., d/b/a US AIRWAYS EXPRESS
ANNUAL COMPENSATION REQUIREMENT FOR ESSENTIAL AIR SERVICE AT
GREAT BEND AND HAYS, KANSAS
(At 98 percent completion)

Departures		2,147 <u>1/</u>
Block Hours		1,528 <u>1/</u>
Revenue passenger-miles		2,994,026 <u>1/</u>
Available seat-miles		6,224,438 <u>1/</u>
Operating Revenues:		
Passenger: 11,502 psgs at \$94.01	\$1,081,303	
Other (at 1.0% of psg rev)	10,813	
Total Operating Revenues		\$1,092,116
Operating Expenses:		
Direct: Flying Operations (\$126.57/BH)	\$ 193,399	
Fuel & Oil (\$168.63/BH)	257,667	
Other Flight Operations (\$13.94/BH)	21,300	
Aircraft Ownership (\$165.70/BH)	253,190	
Maintenance (\$173.91/BH)	265,734	
Total Direct Expenses		991,290
Indirect: Traffic-related (\$0.010/RPM)	\$ 29,940	
Departure-related (\$115.23/dpt)	247,399	
Capacity-related (\$0.014/ASM)	87,142	
Advertising	5,000	
Total Indirect Expenses		<u>369,481</u>
Total Operating Expenses		\$1,360,771
Operating Loss		\$ 268,655
Profit Element (5.0% of Total Operating Expenses)		\$ 68,039
Annual Compensation Requirement		\$ 336,694

1/ Calculated as follows:

	Departures	Block Hours	Available seat-miles
HYS-GBD	313 x 3 x .98 = 920	920 x 0.316 = 291	920 x 19 x 41 = 716,680
GBD-MCI	313 x 3 x .98 = 920	920 x 1.016 = 935	920 x 19 x 233 = 4,072,840
HYS-MCI	313 x 1 x .98 = 307	307 x 0.984 = 302	307 x 19 x 246 = 1,434,918
Total	<u>2,147</u>	<u>1,528</u>	<u>6,224,438</u>
	Revenue passenger-miles		
GBD-MCI	3,842 x 233 = 895,196		
HYS-MCI	7,660 x 274 = 2,098,840		
Total	<u>2,994,026</u>		

APPENDIX C

HISTORICAL ENPLANEMENTS
TO KANSAS CITY

	1994		1999		INCREASE
	NO.	AVG.	NO.	AVG.	
DODGE CITY	2,282	7.3	2,085	6.7	(8.4) %
GARDEN CITY	2,749	8.8	3,266	10.4	18.8
GREAT BEND	1,390	4.4	1,831	5.8	31.7
HAYS	2,983	9.5	3,454	11.0	15.8
TOTAL	9,404	30.0	10,636	34.0	13.1 %

SOURCE: Bureau of Transportation Statistics Form 298-C, Schedule T-1, and carrier reports. Calendar year 1994 enplanements represent one-half of total origin-and-destination traffic. Dodge City and Garden City traffic figures for 1994 include some traffic to Wichita, which was the two communities' eastern hub until March 1994; see Order 94-3-18, March 9, 1994. Calendar year 1999 enplanements represent boardings at each community. Averages are based on 313 weekdays and weekends each year.

AIR MIDWEST, INC., d/b/a US AIRWAYS EXPRESS
 ESSENTIAL AIR SERVICE AT
 DODGE CITY, GARDEN CITY, GREAT BEND AND HAYS, KANSAS

EFFECTIVE PERIOD	October 1, 1999, through September 30, 2001
SERVICE	12 nonstop or one-stop round trips each week from Dodge City and Garden City to Kansas City 12 nonstop or one-stop round trips each week from Great Bend and Hays to Kansas City
AIRCRAFT TYPE	Beech 1900 (19 seats)
TIMING OF FLIGHTS	Flights must be well-timed and well-spaced to ensure full compensation
SUBSIDY RATE PER ARRIVAL/DEPARTURE	
Dodge City and Garden City	\$109.66 ^{1/}
Great Bend and Hays	\$137.20 ^{2/}
COMPENSATION CEILING EACH WEEK	
Dodge City and Garden City	\$5,264 ^{3/}
Great Bend and Hays	\$6,586 ^{4/}

^{1/} Annual compensation of \$269,106 divided by 2,454 annual arrivals and departures at a 98 percent completion factor, calculated as follows: 8 dpts x 313 service days x .98 = 2,454.

^{2/} Annual compensation of \$336,694 divided by 2,454 annual arrivals and departures at a 98 percent completion factor, calculated as follows: 8 dpts x 313 service days x .98 = 2,454.

^{3/} Subsidy rate per arrival/departure of \$109.66 multiplied by 48 subsidy-eligible arrivals and departures each week.

^{4/} Subsidy rate per arrival/departure of \$137.20 multiplied by 48 subsidy-eligible arrivals and departures each week.

NOTE

The carrier understands that it may forfeit its compensation for any flights that it does not operate in conformance with the terms and stipulations of the rate order, including the service plans outlined in the order and any other significant elements of the required service, without prior approval. The carrier understands that an aircraft take-off and landing at its scheduled destination constitutes a completed flight; absent an explanation supporting subsidy eligibility for a flight that has not been completed, such as certain weather cancellations, only completed flights are considered eligible for subsidy. In addition, if the carrier does not schedule or operate its flights in full conformance with the order for a significant period, it may jeopardize its entire subsidy claim for the period in question. If the carrier contemplates any such changes beyond the scope of the order during the applicable period of these rates, it must first notify the Office of Aviation Analysis in writing and receive written approval from the Department to be ensured of full compensation. Should circumstances warrant, the Department may locate and select a replacement carrier to provide service on these routes. The carrier must complete all flights that can be safely operated; flights that overfly points for lack of traffic will not be compensated. In determining whether subsidy payment for a deviating flight should be adjusted or disallowed, the Department will consider the extent to which the goals of the program are met and the extent of access to the national air transportation system provided to the community.

If the Department unilaterally, either partially or completely, terminates or reduces payments for service or changes service requirements at a specific location provided for under this agreement, then, at the end of the period for which the Department does make payments in the agreed amounts or at the agreed service levels, the carrier may cease to provide service to that specific location without regard to any requirement for notice of such cessation. Those adjustments in the levels of subsidy and/or service that are mutually agreed to in writing by the parties to this agreement do not constitute a total or partial reduction or cessation of payment.

Subsidy contracts are subject to, and incorporate by reference, relevant statutes and Department regulations, as they may be amended from time to time. However, any such statutes, regulations, or amendments thereto shall not operate to controvert the foregoing paragraph.

SERVICE LIST FOR THE STATE OF KANSAS

Air Midwest, Inc.
 Amerijet International, Inc.
 Aspen Airways, Inc.
 Blue Ridge Airlines
 Delta Connection
 Exec Express II, Inc.
 Executive Airlines, Inc.
 Flagship Airlines Inc.
 GP Express Airlines, Inc.
 Heartland Aviation, Inc.
 Lone Star Airlines, Inc.
 Mesa Airlines, Inc.
 Metroflight, Inc.
 Midway Airlines, Inc.
 Midwest Express Airlines, Inc.
 Multi Aero, Inc.
 Northwest AirlinK
 Redwing Airways, Inc.
 Renown Aviation, Inc.
 Trans States Airlines, Inc.

Louis Andrews
 Ken Bannon
 E.B. Freeman
 Douglas Gumula
 Ben Harrison
 A. Edward Jenner
 Keith Kahle
 John McFarlane
 Robert Wignmore